

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of

Amendment of Section 97.205 (g)
related to Amateur Repeater Stations

FCC MAIL SECTION

APR 15 12 35 PM '91

RECEIVED BY
RM 7649

ORIGINAL
FILE

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APR 15 1991

Federal Communications Commission
Office of the Secretary

REPLY COMMENTS OF AN ORIGINAL PETITIONER

To the Honorable FCC COMMISSIONERS:

As a petitioner in RM-7649, I am gratified by the response of fellow amateurs to this proposal. I have received encouraging comments from all over the country.

We have asked the Commission to adopt the following rule:

97.205 (g) Where transmissions to the input frequency of a repeater are prohibited by these Rules, and the repeater retransmits a prohibited transmission, the originator of the prohibited transmission has the primary responsibility for the retransmission, and the licensee of the repeater has a secondary responsibility.

Joe Jarrett, K5FOG, and I started work on our petition with FM voice repeaters in mind. It has involved more than one year of research and discussion. We have answered questions from interested amateurs about whether our petition also applies to the various digital modes of repeated communications. In answering, I have simply read the definition of a "Repeater," which is found in Part 97.3 (34):

Repeater. An amateur station that automatically retransmits the signals of other stations.

With this explanation, those inquiring seem satisfied that our petition covers the digital modes. It is situations involving these modes that concern many amateurs, although we are concerned for the voice modes as well. I have been given copies of two letters written by amateurs to the Commission, providing reasons why each of them should not have to pay \$300.00 forfeitures on account of allegedly prohibited content of messages automatically retransmitted by their digital systems. I would like for the rule we have proposed to apply to these systems. While I am not an attorney, I am of the belief that this coverage is provided. At the same time, I would tell you that I am not an expert on all the digital systems that may be available, or that may be under development, for current or future use in the amateur service.

We also desire that the rule adopted settle these matters using "plain English" to precisely resolve issues of urgent importance to the amateur community.

Witnesses should not be put into a position of arguing with one another for hours

of what is transmitted by other licensees on the input frequencies of their repeaters. Some trustees have been wrong about their interpretation of these rules. Repeaters have been turned off, and long term controversies started, because of a trustee's incorrect conclusions about the FCC Rules.

When these controversies gain momentum, the FCC FOB offices are contacted by citizen amateurs. When these situations involve a large number of people, much time and effort of the staff is demanded. It is hoped that the adoption of our proposal will reduce the potential for certain types of controversies to commence that would take considerable time and effort of the commission's staff, and/or ultimately end up in litigation or formal action in court. The public will benefit from a more efficient operation of FCC FOB offices if such controversies do not drain their resources. RM-7649 is intended to help reduce this drain.

The new paragraph "g" does not eliminate a trustee's responsibility for insuring the proper operation of his repeater. It is intended to protect him from blame for those instantaneous operations over which he has no effective control.

With this, we have the concept of a secondary responsibility, and the influence of Section 97.205 (c) on our proposal.

In their comments, the Motor City Radio Club, Inc. of Wyandotte, Michigan states: "Secondary responsibility of the repeater licensee could mean that if a pattern of improper communications is perceived that it could be required that the repeater licensee seek solutions to eliminate the problem." This is the kind of arrangement we are seeking in the rules.

Joe Jarrett and I are personally familiar with an enforcement action taken by the Dallas FOB under the primary and secondary responsibility prescribed in Section 97.205 (c). This was successful.

The Motor City Radio Club also states:

We believe that strict enforcement of the present rules can lead to the shutting down of repeaters because the licensees do not want to be held responsible for things over which they do not have complete control. This would mean the loss of a valuable resource for emergency and public service communications.

I agree. I have learned of a repeater trustee who shut down his club's repeater during a period of political controversy within the amateur community and arguments over his various interpretations of the rules. Then when an emergency took place, a club member could not use the repeater, or its telephone line connection, to call police.

As amateur licensees who use repeaters regularly, we feel this change will be beneficial to the amateur service. We are encouraged by the support for this proposal. It has been editorially endorsed by the Amateur Radio News Service. It has been endorsed by Wayne Green, W2NSD, publisher of 73 Magazine. It has been endorsed by the Texas VHF-FM Society at its winter meeting, and, more recently, by the Motor City Radio Club. It has been endorsed by numerous individuals, who have either written letters or signed petitions.

In its endorsement, "NewsLine," a bulletin of the The Amateur Radio News Service (formerly "WestLink"), Bill Pasternak, Editor, said:

The FCC has accepted a request for Rule Making that seeks to solve the problem of just who is responsible for the content of a message relayed automatically by amateur radio. Authored by Tom Blackwell, N5GAR of Dallas, Texas, RM-7649, seeks to determine the amount of responsibility the originating station must accept while limiting the responsibility of the station providing the relay service. Under the N5GAR proposal, the licensee of any repeating station, be it analog or digital, would be liable only as a secondary entity. If there was a reasonable way to intercept an illegal transmission it would still be his responsibility to do so. But in the case of voice repeaters, where the relay function is instantaneous, and in packet forwarding where things are automated, the relay operator would not be forced to try to censor improprieties on a real time basis. N5GAR asks all hams, and especially repeater owners, frequency coordinators, and packet BBS sysops, to write to the FCC in support of RM-7649 before the April 5th commentary cut-off date. We at NewsLine urge you to support RM-7649, and file your comments, as well.

With this, I would encourage the Commission to proceed to the next step with our petition at this time.

Respectfully submitted,

A handwritten signature in black ink that reads "Tom M. Blackwell". The signature is fluid and cursive, with a long horizontal stroke at the end.

Tom M. Blackwell, N5GAR
P.O. Box 25403
Dallas, Texas 75225
(214) 361-7531

Attachments

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Amendment of Section 97.205 (g)
related to Amateur Repeater Stations

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RM - 7649

COMMENTS SUPPORTING RM-7649

To the Honorable FCC COMMISSIONERS:

The Texas VHF-FM Society, Representing over 600 members and coordinating over 1100 amateur radio repeaters in The State of Texas, endorses RM-7649 and encourages the Commission to adopt this change, adding Part 97.205 (g) to the Amateur Radio Service Rules, for the reasons explained in the petition.

This resolution was adopted this 16th Day of March, 1991 at a general membership meeting of the Texas VHF-FM Society in Midland, Texas.

President: Paul Gilbert, KE5ZW

COPY

FCC MAIL SECTION

APR 15 12 36 PM '91

MOTOR CITY RADIO CLUB, INC.
PO BOX 337
WYANDOTTE, MI 48192
APRIL 5, 1991

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Secretary
Federal Communications Commission
Washington, DC 20554

Formal comments on RM-7649

In the Matter of

Amendment of Part 97 of the Commission's Rules
Concerning responsibility for the content of all automatically
re-transmitted signals in the Amateur Radio Service.


The Motor City Radio Club has represented amateur radio operators in south eastern Michigan since 1932 and has members active in all aspects of the service. Membership concern has been voiced regarding the responsibility of the licensee of repeater stations for the content of re-transmitted signals through the repeater. The club was about to petition for a change in FCC rules in this matter when it was learned that RM-7649 had been filed. These comments are to be considered to be in support of RM-7649.

The licensee and/or control operator of a repeater in the Amateur Radio Service should not be held primarily responsible for the content of the communications through the repeater but this responsibility should be that of the operator of the originating station. The operator of the repeater station can not be expected to censor the content of an improper message until it has already passed through the system. By then, it is too late. The violation has taken place and the repeater licensee had no way to control it. The originating operator is the only person who has complete control of the content of the message. This would be also the person who would presumably benefit from communications having pecuniary content. Certainly not the repeater licensee.

Secondary responsibility of the repeater licensee could mean that if a pattern of improper communications is perceived that it could be required that the repeater licensee seek solutions to eliminate the problem.

We believe that strict enforcement of the present rules can lead to the shutting down of repeaters because the licensees do not want to be held responsible for things over which they do not have complete control. This would mean the loss of a valuable resource for emergency and public service communications.

Comments adopted at the regular meeting of the Motor City Radio Club, Inc, April 5, 1991.



Richard St Amant, WOPDV
President

✓ cc: Tom Blackwell, N5GAR
Dallas, Texas

 * Dr. Wayne Green W2WSD/1 Publisher CD Review - Music Retailing - INPA News - Free Music Guide - CD Yearbook *
 * Wayne Green Enterprises 73 Amateur Radio Today - Radio Fun - NIAC News - Radio Marketing - MUSIC *
 * Hancock, N.H. 03449 Entrepreneur Out To Launch Inc - Golden Studios - Music/NH - Creative Music Marketing *
 * (603)525-4294(FAX:4423) Greener Pastures Records - Adventures In Music - Auditions - Music Tree *
 * Home:588-2105(FAX:3205) On Record - DAT's All - Ind. Record Producers Assn - Mensa - GCM - AARL *
 * *****
 * "The reasonable man adapts himself to the world...the unreasonable one persists in trying to adapt the world to him- *
 * self. Therefore, all progress depends on the unreasonable man."George Bernard Shaw *
 * *****

Secretary FCC
 Washington DC 20554

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3/18/91

Re: RM-7649 - Amending the repeater rules

APR 15 1991

Honorable Commissioners:

MAIL BRANCH

The amateur radio service can benefit our country only if it is permitted to develop new technologies with a minimum of interference. Indeed, amateur radio can be an enormously valuable resource.

It's well known that most scientific break-throughs have been made by amateurs. Professionals normally can't afford to spend the time and money it takes to pursue technologies which have only a slight chance at success. Amateurs can. Most fail, but the few which succeed are worth all the failures and more.

Radio amateurs developed most of our present communications modes. Jack Babkes W2GDG developed ~~and improved narrow band FM back in 1944. That's the reason our communications mode for mobile~~

RON
WA5RON



Secretary
Federal Communications Commission
1919 M Street NW
Washington, DC 20554

24 MAR 91

COMMENTS: RM-7649

I am in favor of this petition submitted by Tom Blackwell N5GAR and Joe Jarrett K5FOG to provide a new paragraph G to 47CFR Part 97.205. Their proposal would give the Commission latitude to hold the originating station primarily responsible for prohibited transmissions, and to issue sanctions as required, without removing the present provisions in the Amateur Service Rules that require all stations who automatically relay such transmissions to maintain responsibility for their stations' operation and content of transmissions so relayed. I should think that the Commission and its engineers and field operations personnel will welcome this needed clarification and flexible language added to the present Rules. I can see where no one is hurt or inconvenienced by this addition.

JEROLD R. JOHNSON

Jerold R. Johnson WA5RON
12700 Silver Creek
Austin, TX 78727

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APR 15 1991

MAIL BRANCH

The BEARS

BEXAR EMERGENCY AMATEUR REPEATER SYSTEM

SINCE 1978: W5XW/R
147.90 IN - 147.30 OUT

16015 White Fawn Drive
San Antonio, Texas 78255-1042

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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APR 15 1991

MAIL BRANCH

In the Matter of)
)
Amending the Rules to Clarify Primary)
and Secondary Responsibility for Re-)
peated Transmissions)

RM-7649

COMMENTS

Comments in Support of the Proposed Amendment are hereby submitted by the undersigned VHF repeater owner and operator notwithstanding that I have not had an opportunity to actually study the proposal submitted by Tom Blackwell, N5GAR, and Joe Jarrett, K5FOG. I have personally known Joe Jarrett for 20 years and my association with him through the Texas VHF FM Society convinces me that any formal proposal associated with his name will be well thought out and serious. Furthermore, I am quite well informed about the recent Commission enforcement actions which while involving Amateur Packet Radio retransmissions, I found to be quite chilling as I applied hypothetically the Commission's enforcement actions against Packet Radio operators to the essentially-quite-similar situation of UHF/VHF voice repeaters. It is my opinion that the Commission, while correct in enforcing a rule against commercial use of Amateur Radio, has nevertheless opened a Pandora's Box, and for the most reprehensible reason: it seems apparent the anti-Establishment political content (anti-Desert Shield/Desert Storm) of the violation was an even greater motivation than the noncommercial use aspect; I acknowledge that the Commission was only responding to a formal complaint—and that the complaint obviously reflects the politics of the complainant in the matter and not necessarily the politics of the Commission. However, the current Rules are too vague, and the Commission's recent enforcement actions irrational in the technical context, and threaten the future of "repeaters" of all types operated in the A.R.S. The Commission is thus encouraged to carry this matter forward and issue a Notice of Proposed Rule Making for appropriate comment by the A.R.S. to ultimately revise the Rules in a manner which enhances the prospects for voluntary compliance.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this date he served by first class U.S. Mail, postage prepaid, a copy of the foregoing comments to the petitioner at:

P.O. Box 25403
Dallas, TX 75225

By, /s/ Robert G. Wheaton



ACRONYM HELL —
IT'S A STATEMENT!

18 March, 1991

March 29, 1991

Bruce Nolte, N6TFS
P.O. Box 41446
Los Angeles, CA 90041

N6TFS

BRUCE NOLTE
P.O. BOX 41446, LOS ANGELES, CA 90041
(213) 257-5502
MONITOR: 146.820 (-600)
PACKET: N6TFS @ N6YN

Federal Communications Commission
Office of the Secretary
Washington, D.C. 20554

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APR 15 1991

Ref: Response to RM-7649

MAIL BRANCH

Dear Commission Members:

I wish to express my support for the petition filed by Tom Blackwell, N3GAR. Assigned file number of RM-7649 on March 6, 1991.

Part 97.205(d) of the Amateur Radio Service Rules and Regulations does allow for automatic operation of a repeater. My understanding of the Rules and Regulations leads me to believe that these rules apply equally to all amateur repeaters in automatic operation, including: amateur television repeaters, earth orbiting satellite repeaters, RTTY repeaters, phone repeaters, and digital repeaters.

Just because packet radio permits storage, forward, and hardcopy printout of the relayed communications, that should not make digital repeaters any more guilty of relaying instantaneous illegal transmissions, than the other types of repeaters allowed under Part 97.205 (d).

The originator of an illegal transmission should be the person held responsible. Control operators of repeaters in automatic operation believe that all legally licensed users should use their system in a legitimate manner. No matter what type of repeater it might be. In most cases, control operators and owners, have invested personal time and money, in a repeater system that can benefit the entire Amateur Radio community.

Thank you for considering my opinions on this important matter.

Sincerely,

Bruce Nolte, N6TFS

Hi Tom:

Here is a copy of
what I sent.

Much Thanks!

Bruce Nolte

2 Before the
FEDERAL COMMUNICATIONS COMMISSION
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In the matter of
RM-7649 a petition regarding)RM-7649 RM-7649
responsibility for)RM-7649 RM-7649
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cations in the Amateur Service.)RM-7649 RM-7649

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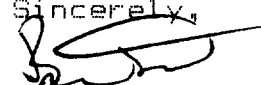
MAIL BRANCH

I am an Extra Class Amateur Radio operator, K0BJ, licensed and active from 1967. I operate a VHF packet radio station and have been active in 3rd party traffic for over 20 years.

I do not have access to the petition in question, but have some knowledge of it through a summary published in the March 15 WSYI Report. I remember the days when I regularly handled 3rd party traffic on HF cw, then came the rising popularity of VHF repeaters. It always seemed odd to me that according to FCC rules relayers of traffic were held equally liable for the propriety of that traffic as the originators. When packet radio came along, it was clear that technology had outpaced the science of rulewriting. However, the packet community at large was definitely under the impression that FCC was pursuing a policy of nonenforcement of relay station culpability in the realm of automatic control via packet. That view, however arrived at, came to an end recently with the enforcement actions taken as a result of the now infamous "900 number" packet message.

I feel there are two good arguments for adoption of rules similar to those asked for in the present petition. First, it seems to me intuitively obvious that the burden of responsibility for communication lies with the party which introduces the communication. Relay points, whether they be cw NTS members, a VHF repeater, or a digipeater, are merely channels used to conduct the original communication from source to destination. Second, in cases of non-human relay such as repeaters and packet radio, the relay process is technically feasible without human intervention, and is carried out nearly instantaneously. Clearly, in order for technology to be advanced as fully as possible, we must hold the relay point faultless for the CONTENT of communication not originating with their operation. What better time to determine the propriety of communication than at its introduction into the communications chain?

Repeater trustees and packet radio node operators have a responsibility to insure technically clean retransmissions and to provide safeguards against occupying spectrum with failed systems providing no relay of intelligence. The liability concerning the legality, suitability and propriety of that intelligence should fall on the person who introduces the communication into the relay system. I ask that you adopt RM-7649 or any other similar petition calling for repeal of rules holding liability for message content with relayers of such messages. Sincerely,


Bruce Frahm K0BJ
PO Box DX
Colby KS 67701

Before the
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Washington, DC 20554

In the Matter of

Amendment of Section 97.205 (g)
related to Amateur Repeater Stations

RM - 7649

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MAIL BRANCH

COMMENTS SUPPORTING RM-7649

To the Honorable FCC COMMISSIONERS:

We, the undersigned wish to go on record supporting the Petition for Rule Making
by Tom Blackwell and Joe Jarrett, number RM-7649, for the reasons stated therein.

✓ MERLE D. TAYLOR

Merle D. Taylor WBSEPI

605 S. WALNUT CREEK

MANFIELD TX 76063

Edward R. WSAUY

1255 GLEN AVE

DESOTO, TX 75115

1 M. ... 1255 GLEN AVE DESOTO, TX 75115

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Gary Huggins 3932 Gatwick Circle #1707 Ft. Worth, TX. 76155

Mark Haden 3685 N 9 ADILANE TR 29602 9156775411

James M. Roden 2400 ABLES PLANO, TX 75093
JAMES M. RODEN, N5FL

James R. Juhl P.O. Box 359, Alpine, TX 79831-0359
WB5MPX

H. Eldis Bertram P.O. Box 1106 Belville, TX 78104
W5PIL

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Louis BANCOOK
2200 ~~Round~~ Logan Dr.
Round Rock, TX. 78664

WB5UUT

Louis A. Bancook

WAYNE W. WYATT
7502 CARTWHEEL LANE
SAN ANTONIO, TX 78227

WB5QBV

Wayne W. Wyatt

DENNIS IRVIN
1513 WTHIRD
IRVING, TEXAS
75060

NT5J

Dennis Irvin

Before the
FEDERAL COMMUNICATIONS COMMISSION
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100-454001

Before the
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William Williams W0PNY, PRES CCARC, GAINESVILLE, TX 76240
Donald J. Dudley WB5TWP RETIRED GAINESVILLE TX 76240
Henry W. Richards W4SHVI SEC. CCARC GAINESVILLE, TX 76240
Francis K. Leach N5MJE, GAINESVILLE, TX 76240
Woody Featherston N5P6I GAINESVILLE, TX 76240 (MOBILE)
Ray N5ACJ RTI Box 328 COLLINSVILLE TX
Clint Handgery W4SYON Gainesville, TX
James Floyd N5F3G GAINESVILLE, TX
Jim Buss AASLU COLLINSVILLE, TX

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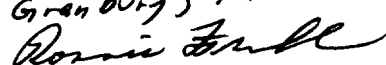

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TIMOTHY B. MITCHELL KA5RYF
P.O. BOX 4432
LUBBOCK, TX 79409


JAMES WILSON
2123 BVAH CR. S.

Ronnie Franklin WDSG IC
Rt 8 Box 141
Granbury, TX 76048

MARCUS WAGNER N5GES
9100 Hwy 2181-11 H
Denton TX 76205


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Rafael Dominguez

*1606 E. 17th Big Spring, Texas
19720*

Robert McElshert K5PFE

619 3rd St Jasper TX 75951

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ALB WITON W5VRE
2049 Robin Road
Abilene, TX 79605

Mike Blackwell W05BQH
201 Old Pflugerville Rd. Box 8
Pflugerville, TX. 78660

B. JOHN McDAWELL, KESPL
P.O. BOX 80522

Jerrel JONES W5TUL
2025 MEADOWCREEK DR
DALLAS TX 75074-4663

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Michael L. SCAMMEL K1BSFNE
2418 Norway DR.
Garland, TX 75040

DAVID KENAN N5IMT
2814 HIGH PLATEAU DR.
GARLAND, TX 75044

R.D. Hitch WBS WUB
922 King, Bldg 0
Garland TX 75040

Burt Bates N5DEO
2222 Pueblo DR
Garland, TX 75040

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N. E. Lloyd B. Crawford
ADDRESS P.O. Box 18958
Austin, TX 78760
CALL N5GDB

NAME

address

call

Stephen Borshach

16304 Westview Tr.
Austin TX 78737

K65BR

JOE MAGUE
Joe Mague

430 NEWBERRY ST
GRAND PRAIRIE TX 75052

K5OM

Charles Rich

4017 Amy Cir.
Austin, Tx 78759

W4SES

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In the Matter of

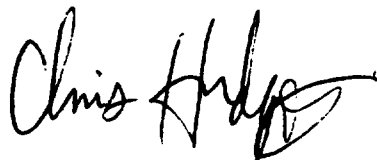
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Chris Hudgins N5IUF
P.O. Box 412
Roanoke, Texas 76262

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